United Nations CAT/C/CHN-MAC/5

Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

Distr.: General
4 April 2014

Original: Chinese and English

Committee against Torture

Consideration of reports submitted by States parties under article 19 of the Convention

Fifth periodic report of States parties due in 2012

Macao, China *, **

[20 June 2013]

* The present report of Macao, China, is part of the fifth periodic report of China. The previous report of Macao, China (CAT/C/MAC/4), was issued as part of the fourth periodic report of China and was considered by the Committee at its 844th and 846th meetings, held on 7 and 10 November 2008. See also the Committee's concluding observations (CAT/C/MAC/CO/4).

** The present document is being issued without formal editing.

GE.14-42252

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Part I. General information

1. The present report is the second periodic report submitted by the Macao Special Administrative Region (hereinafter "the Macao SAR") in accordance with article 19(1) of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (hereinafter "the Convention against Torture"). This report will be included in the Sixth Report submitted by the People's Republic of China, in compliance with the Convention against Torture. This report covers the period from 1 January 2005 to 31 March 2012.

2. The Initial Report submitted by the Macao SAR (CAT/C/MAC/4) was included in the fourth report of the People's Republic of China (CAT/C/CHN/4), as considered by the Committee against Torture (hereinafter "the Committee") on November 7th and 10th, 2008. The relevant concluding observations (CAT/C/MAC/CO/4) were adopted on 21 November 2008.

3. This report was prepared in conformity with the Committee's general guidelines regarding the form and contents of periodic reports to be submitted by States parties under article 19, paragraph 1, of the Convention against Torture (documents CAT/C/14/Rev.1 and HRI/GEN/2/Rev.6), and should be read in conjunction with the third part, second revision of the core document forming part of the reports of States parties – the People's Republic of China (HRI/CORE/1/Add.21/Rev.2) and its updated document of 2010 (HRI/CORE/CHN-MAC/2010).

4. The laws, policies and measures introduced for the implementation of the Convention against Torture by the Macao SAR as detailed in the Initial Report still remain valid. This report intends to provide the Committee with the latest developments in the Macao SAR since submission of the Initial Report, in addition to responding to the concerns and recommendations made by the Committee in its concluding observations. The above-mentioned report and concluding observations have been uploaded to the Macao SAR Government Portal for public access.

Part II. Information regarding each article of Part I of the Convention

Article 1
Defining "torture"

5. The current situation is approximately the same as stated in paragraphs 41 to 53 of the Initial Report.

6. In paragraph 4 of the concluding observations of 2008, the Committee expressed its concern about the scope of the crime in respect of public officials under Article 234(1) of the Penal Code, stating that it was not fully compliant with the definition of torture contained in article 1 of the Convention against Torture. The Committee recommended that the Macao SAR adopt a definition of the term "public officials" that is fully in line with article 1, paragraph 1, of the Convention against Torture, in order to include any public officials or other persons acting in an official capacity. In addition, it also recommended the Macao SAR consider using a wording to define "torture" to ensure the elements contained in article 1 of the Convention against Torture are covered.

7. First of all, Article 234 of the Penal Code refers to public officials as those who are legally assigned [*de jure*] with the function of preventing, prosecuting, investigating or hearing of criminal or disciplinary infractions, or executing corresponding sanctions, or with the functions of protection, guard or surveillance of a detainee or prisoner. This definition covers all the staff of the public administration of the Macao SAR formally entrusted to exercise the aforementioned duties.

8. Furthermore, Article 235 of the Penal Code also extends the concept of public officials to "whoever, [*de facto*] either by its own initiative or by superior order, usurps the function(s) mentioned in Article 234". As a consequence according to the criminal laws of the Macao SAR, public officials include anyone executing the legally charged duties of the Public Administration on the one hand, and other personnel performing such duties literally on the other. For this reason, the perpetrator of the crime of torture as specified by the Penal Code is in conformity with the spirit of the Convention against Torture.

9. As to instigating others to commit the crime of torture, since the Penal Code has established related provisions in its General Part, it is not necessary to have separate stipulation in Article 234. The subject of crime under Article 25 of the Penal Code includes not only "someone who commits the fact himself or herself" (immediate principal offender), but also "someone who commits the fact through another person" (mediate principal offender) and "someone who intentionally induces others to commit the fact" (instigator).

10. The General Part of the Penal Code also governs the consent or acquiescence to others for committing the crime of torture. The concept of accomplice under Article 26 of the Penal Code rules that anyone is punishable if he consents or acquiesces to another person committing the crime of torture.

11. Articles 25, 26, 234 and 235 of the Penal Code fully correspond with the stipulation of article 1 of the Convention against Torture in regard to the subject of the crime of torture. A person, no matter being a public official or actually performs public duties, shall be held criminally liable if he or she instigates, consents to or acquiesces to others committing the crime of torture.

12. In addition, Article 234(2) of the Penal Code provides that a person is punishable if he commits the crime of torture with "the intention to impair the capacity of decision or the free will of the victim". Though the stipulation last said does not include "discrimination of any kind" prescribed by the Convention against Torture as the subjective element of offence, this does not mean torture committed on the basis of discrimination is unpunished by the Penal Code.

13. In fact, similar to the criminal codes enacted in countries with civil law systems, the Penal Code incorporates a Special Part, wherein offences are regulated through a "fragmentary" model. This means that a legal interest the laws intend to protect is not given under one single provision (type of crime) but rather through several provisions on different types of crime to protect the legal interest criminally infringed. For instance, for a crime of torture committed for any discriminatory reason, the perpetrator is punishable with aggravated crime to a person's physical integrity (Article 140) under the Penal Code, or with another crime, for instance crimes against personal freedom (Article 152), whose level of punishment severity is similar to that of the crime of torture.

Article 2
Legislative, administrative, judicial or other measures to prevent acts of torture

14. The current situation is approximately the same as that stated in paragraphs 54 to 93 (paragraphs 54 to 99 in the English version) of the Initial Report. Since then, there have been no cases of the crime of torture as regarded by the Penal Code in the Macao SAR.

15. However, the Macao SAR Government has not overlooked the importance attached to the prevention of torture; but rather, through legislative measures, adopted two laws in January 2009 and March 2012, which help safeguard basic human rights and the prevention of the crime of torture.

16. To better and fully implement Article 36 of the Basic Law, which regulates residents' rights to resort to laws and the courts and assistance from lawyers, the Macao SAR, in January 2009, adopted Law 1/2009. This law regulates that every person is guaranteed the access to law, initiation of proceedings in courts, assistance of a lawyer in any and at any stage of proceedings even participating as a witness, declarant or suspect. In addition, every person is entitled to legal information and consultation, *pro se* legal representation and be accompanied by a lawyer before any public authorities, especially the judicial and criminal investigation authorities, regardless of the existence and demonstration of prior authorization.

17. The enforcement of Law 1/2009 not only underpins a person's fundamental rights to be assisted by lawyers when taking part in any proceedings merely as a witness or declarant, and protects suspect, witness or declarant from impeded access to lawyer's assistance when lacking prior authorization.

18. Moreover, the Macao SAR enacted Law 2/2012 in March 2012, the Legal Regime of Video Surveillance in Public Places, which regulates the use of video surveillance systems in public places by the security forces and security departments of the Macao SAR. Article 5(3) of this law prescribes that to protect the personal safety and for the prevention of crime, the use of surveillance systems in any crime-prone area is allowed, especially in places of detention or enforcement of custodial sentences. Also regulated by Article 14 of the indicated law are the images and sounds collected from video surveillance systems, which may constitute evidence in criminal proceedings. It should be noted that Law 2/2012 should be read together with Law 8/2005 on the Protection of Personal Data, whereby the use of video surveillance aiming at ensuring public order, tranquility and personal safety must respect individuals' fundamental rights and freedoms and the basic principles of legality, proportionality and necessity.

19. The measures of using video surveillance systems not only contribute to the prevention of crimes of torture under Law 2/2012, wherein also the value of evidence assists the reporting of crimes of torture and makes offenders liable to criminal responsibility in the event of crimes of torture.

Article 3
Torture as a ground for refusal to expel, return or extradite

20. The current situation is approximately the same as that stated in paragraphs 94 to 103 (paragraphs 100 to 109 in the English version).

21. Extradition refers to the surrender by one State to another of a person found in the former State being accused or convicted of an offence by that requesting State for trial or punishment. As only a State can become the subject of an extradition relationship and since

the Macao SAR is part of the People's Republic of China, the concept of extradition does not exist, and "surrender of fugitives" is used to that effect instead. To this end, in those parts regarding extradition under the Convention against Torture, the term "extradition" will be expressed as "surrender of fugitives".

22. Since China resumed the exercise of sovereignty over Macao, on the basis of Article 94 of the Basic Law, the Macao SAR, with the assistance and authorization of the Central People's Government, may make appropriate arrangements with foreign countries for mutual legal assistance, including establishing the mutual mechanism for the surrender of fugitives.

23. To improve mutual legal assistance in criminal matters, the Macao SAR, in July 2006, adopted Law 6/2006, the Law on Mutual Legal Assistance in Criminal Matters. This law governs the prerequisites and procedures for mutual legal assistance in criminal matters established between the Macao SAR and countries or territories other than the People's Republic of China. This law provides a legal basis and principles for strengthening international judicial cooperation in criminal matters, in the aspects of fight against crime and punishment of offenders, between the Macao SAR and overseas countries.

24. According to Article 1(2) of the Law on Mutual Legal Assistance in Criminal Matters, surrender of fugitives is one category of mutual legal assistance in criminal matters. Article 3 of the indicated law specifies that surrender of fugitives is a process which the requested party, upon request from the requesting party, transfers to the latter a person who is accused as a crime suspect or a sentenced person and found locating in the requested party. Article 32 of the same law governs the purpose and basis for surrender of fugitives, plus surrender of fugitives is only authorized for the purpose of initiating criminal proceedings or executing punishment or security measures involving the deprivation of liberty, on the premise that criminal jurisdiction falls within the jurisdiction of the court of the requesting party.

25. About the handling procedures for the request of fugitives surrender, the Law on Mutual Legal Assistance in Criminal Matters adopts a mode which comprises an administrative stage and a judicial stage. According to Articles 48 and 50 of the said law, amid the administrative stage, the Procuratorate, on receipt of a request of surrender of fugitives, shall immediately examine its formal regularity (*regularidade formal*), before submitting this request with a proposal to the Chief Executive to examine. The Chief Executive shall decide whether to continue the procedure or to declare it as inadmissible on the grounds of politics, timeliness or suitability. If considered as inadmissible the request will not come to the judicial stage, whereas it reaches the judicial stage if accepted. During which, the Court of Second Instance, after hearing the interested party's statement, shall make a decision whether to allow the surrender of fugitives, depending on whether the request suffices the formal elements and substantial elements given by law.

26. The person requested to be surrender can appeal to the Court of Final Appeal against the decision by the Court of Second Instance, according to Article 59 of the Law on Mutual Legal Assistance in Criminal Matters.

27. In respect of surrender of fugitives the laws of the Macao SAR match the legal requirements ruled by article 3 of the Convention against Torture. Article 7(1)(1) of the Law on Mutual Legal Assistance in Criminal Matters provides that the Macao SAR shall refuse a request of mutual legal assistance in criminal matters, if it does not comply with the international conventions applicable to the Macao SAR.

28. Amongst the international conventions the Macao SAR applies, article 7 of the International Covenant on Civil and Political Rights prohibits anyone from inflicting torture or cruel, inhuman or degrading treatment or punishment. Article 3 of the Convention against Torture expressly specifies that no State party shall expel, return ("refouler") or

extradite a person to another State where there are substantial grounds for believing that he would be in danger of being subjected to torture. Therefore, the Macao SAR shall refuse surrendering a fugitive offender to the requesting party when there are substantial grounds to believe that this person will be subject to torture or to cruel, inhuman or degrading treatment or punishment in the requesting jurisdiction.

29. Furthermore, the Macao SAR shall also refuse a request of fugitive surrender on the cause of violation of the basic rights given by law. For instance, according to Articles 7(1)(2) and 7(1)(3) of the Law on Mutual Legal Assistance in Criminal Matters, the Macao SAR shall decline a surrender request if there are reasonable grounds to believe that surrender is requested for the purpose of persecuting or punishing a person, or worsening his situation in proceedings, owing to his nationality, descent, race, sex, language, religion, political or ideological convictions, education, economic status, social condition or membership of a particular social group. The above stipulation protects the principle of equality, preventing the surrendered person from unfair treatment or trial because of discrimination.

30. On the other hand, according to Article 8(1)(1) of the same law, the Macao SAR shall also refuse a surrender request if it concerns a crime of political nature, with the aim of safeguarding the basic human rights as well as preventing the requesting jurisdiction from politically persecuting or conducting unfair trials of dissidents.

31. Therefore, any reasons to believe that a person will be subjected to torture or his basic human rights will be infringed in the requesting jurisdiction, the Macao SAR shall refuse the request for surrender.

32. Regarding the regime of the recognition and loss of refugee status, the situation remains essentially as explained in paragraphs 72 to 76 of the Written Replies by the Macao SAR to the List of Issues to be Considered (CAT/C/MAC/Q/4/Add.1). Any application for refugee status shall be processed in compliance with Law 1/2004, the Legal Framework on the Recognition and Loss of Refugee Status. The table below shows the number of cases of refugee status applications between 2005 and 2011:

Application for the recognition of refugee status

Nationality	*2005*	*2006*	*2007*	*2008*	*2009*	*2010*	*2011*
Sri Lanka	-	2	-	-	-	-	-
Pakistan	-	-	-	1	-	1	-
Syria	-	-	-	1	-	-	-
Iraq	-	-	-	1	-	-	-
India	-	-	-	-	-	1	-
Cameroon	-	-	-	-	-	-	1

Source: The Commission for Refugees of Macao SAR.

33. Amongst the eight cases noted above, four of which were denied, two were pending under analysis, the applicant in one case died during the process, and the applicant in one case was repatriated after giving up his application. None of these eight cases of refugee-status application was due to the reason of torture. Applicants in two cases of the four denied cases have filed for appeals.

Article 4
Making acts of torture offences under the criminal law

34. The current situation is approximately the same as that stated in paragraphs 104 to 112 (paragraphs 110 to 118 in the English version) of the Initial Report. The legal framework governing the crime of torture has remained unchanged thereafter.

35. Article 28 of the Basic Law expressly forbids the torture or inhuman treatment to any residents, likewise Article 43 stipulates that no one in the Macao SAR shall be subjected to torture or inhuman treatment.

36. The crime of torture, apart from expressly prohibited by the Basic Law, is also listed as a criminal offence under the Penal Code, wherein anyone commits acts of torture in person or through others, or aids or abets others to commit the crime of torture shall be punished.

37. In paragraph 5 of the concluding observation of 2008, the Committee called attention to the difference between the crimes provided for by the Penal Code in Articles 234 (torture) and 236 (serious torture), and was concerned that this distinction might lead to the perception that there were more and less serious crimes of torture. To this, the Committee recommended that the Macao SAR define and criminalize torture in the Penal Code to fulfill Article 1 and 4 of the Convention against Torture, and establish the crime of torture as a single offence, with relevant aggravating circumstances applicable to the crime of torture.

38. It is necessary to once again point out that the Special Part of the Penal Code governs different types of crime through a "fragmentary" model. This kind of legislative technique applied not only to the stipulation of the crime of torture, also to the stipulation of other kinds of crime. Basically the Penal Code establishes the so-called "fundamental offence", describing the acts that damage a given legal interest. On the basis of this fundamental offence and considering the level of damage to the same legal interest, separate articles are stipulated for the aggravating or mitigating circumstances of the violation. For example, homicide as given in Article 128 as opposed to the separate stipulation of aggravated homicide under Article 129 and mitigated homicide under Article 130. Likewise, the ordinary crime to a person's physical integrity given in Article 137 compared to Article 140, the aggravated crime to a person's physical integrity and Article 141, the mitigated crime to a person's physical integrity.

39. This is precisely the case of the crime of torture: the fundamental crime of torture is given in Article 234 of the Penal Code, compared to the aggravated crime of torture in its Article 236, as realized by the aggravation (*sensu proprio*) in terms of circumstances and conditions contained in Article 236(1) and results in Article 236(2), namely, the death or suicide of the victim. The said legislative mode as adopted for Articles 234 and 236 are in keeping with the usual practice adopted for the Penal Code and the criminal legislation of the Macao SAR.

40. In summary, the Convention against Torture does not mandate a particular legislative technique to stipulate for the crime of torture. The legislative technique adopted for the crime of torture under the Penal Code is of the usual legislative mode implemented for the Macao SAR criminal laws. The crime of torture under the legislative mode as such meets the requirement of the Convention against Torture.

41. Between 2005 and 31 March 2012, no cases of crime of torture were reported in the Macao SAR.

Article 5
Establishment of jurisdiction

42. The current situation is approximately the same as that stated in paragraphs 113 to 119 of the Initial Report (paragraphs 119 to 125 in the English version). According to Articles 4 and 5 of the Penal Code, acts of torture no matter committed in the Macao SAR or abroad, constitute the crime of torture prescribed by the Penal Code, over which the judicial authorities of the Macao SAR exercise jurisdiction.

43. In the concluding observation of 2008, paragraph 6, the Committee pointed out that the Macao SAR should establish its jurisdiction for all acts of torture committed abroad, in accordance with Article 5, paragraph 2, of the Convention against Torture.

44. Stipulation of Article 5(2) of the Penal Code sufficiently eliminates the concerns raised by the Committee, as this Article provides that "the Penal Code of Macao also applies to acts committed abroad, if obligation to prosecute arises from an international convention binding on Macao or from an agreement in the context of Mutual Legal Assistance". The Convention against Torture, being an international covenant applicable to the Macao SAR, obliges it to prosecute any person accused of the crime of torture by another country and found locating in Macao SAR, to whom criminal proceedings shall be initiated for his crime of torture in accordance with Articles 234 and 236 of the Penal Code.

45. Moreover, even if stipulation of Article 5(2) did not exist, the Macao SAR can directly apply the Convention against Torture to initiate criminal proceedings against any person that is found in the Macao SAR and accused of the crime of torture by another country, as Article 1(3) of the Civil Code regulates that international conventions supersede the internal law of the Macao SAR.

46. Additionally, the Convention against Torture and Article 19(1) of the Law on Mutual Legal Assistance in Criminal Matters, both stipulate the "obligation to extradite or prosecute" (*aut dedere aut judicare*). If the Macao SAR decided not to prosecute the alleged perpetrator found within its boundary, it is obliged to surrender this person to the requesting jurisdiction.

Article 6
Powers of detention

47. The current situation is approximately the same as that stated in paragraphs 120 to 131 (paragraphs 126 to 137 in the English version).

Article 7
Prosecution of offenders who are not to be extradited

48. The current situation is approximately the same as that stated in paragraphs 132 to 134 (paragraphs 138 to 140 in the English version).

49. In addition, stipulation similar to article 7 of the Convention against Torture is found in Law 6/2006, Law on Mutual Legal Assistance in Criminal Matters, which mandates prosecuting anyone committed crime in the Macao SAR when he is not to be surrendered. Article 33 of the said law provides that if surrender of fugitives arises from a crime of torture committed in the Macao SAR or the person requested to be surrendered is a Macao resident or a non-Macao resident of Chinese nationals, the Macao SAR shall refuse the surrender request. To this, the Macao SAR shall request the requested State to provide the necessary information for initiating a criminal proceeding for the crime of torture involved.

50. As to any person committed the crime of torture abroad and was found in the Macao SAR, on receipt of the request of the fugitive surrender, if the Macao SAR decided to refuse surrender, the criminal responsibility of that person shall be claimed in pursuance of Article 5, Penal Code.

51. To anyone who is prosecuted criminally, it ensures that this person will get a fair treatment at any stage of the proceedings and will be able to exercise his procedural rights. Such rights include the rights to court trial as soon as possible, to be presumed innocent until proved guilty before the Court, to be present at the time of procedural acts which directly pertain to him, to be represented by a lawyer, to remain silent, to intervene in the investigation or pre-trial, to be informed of his rights by the Court, Procuratorate, or the criminal police authorities, and to appeal against unfavourable rulings.

52. The previously mentioned rights are clearly stipulated by Articles 29 and 36 of the Basic Law, Articles 9 and 14 of the International Covenant on Civil and Political Rights and Articles 49 and 50 of the Criminal Procedural Code, correspondingly these are the given rights to anyone being prosecuted for the crime of torture.

Article 8
Extradition arrangements

53. As indicated above, Law 6/2006, the Law on Mutual Legal Assistance in Criminal Matters provides the basis for mutual legal assistance in criminal matters between the Macao SAR and countries other than the People's Republic of China. Surrender of fugitives is allowed even when agreement for surrender of fugitive is not in place, given that it meets the conditions for surrender of fugitives laid down by the Law on Mutual Legal Assistance in Criminal Matters, and provided that the offences in which the request involved is punishable with no less than one year of imprisonment or security measures according to the laws of the Macao SAR and the requesting party.

54. Furthermore, Article 4 of the Law on Mutual Legal Assistance in Criminal Matters provides that international conventions prevail over, as the international conventions applicable to the Macao SAR are binding on the mutual legal assistance in criminal matters. Hence, the list of international multilateral conventions applicable to the Macao SAR, including the Convention against Torture, may also form the legal basis for the cooperation on the surrender of fugitives.

Article 9
Mutual legal assistance in connection with the crime of torture

55. The current situation is approximately the same as that stated in paragraphs 136 to 138 of the Initial Report (paragraphs 142 to 144 in the English version).

56. Law 6/2006 concerning the Law on Mutual Legal Assistance in Criminal Matters has provided a legal basis for ensuring the normal execution of mutual legal assistance in criminal matters. Pursuant to the provisions of Article 2 and Article 131 of the aforementioned law, the related mutual legal assistance includes the surrender of fugitives, the transfer of criminal proceedings in criminal matters, the execution of criminal judgment, the transfer of sentenced persons, the supervision of conditionally sentenced or conditionally released persons and legal cooperation in criminal matters in other forms such as the service of documents, the delivery of files, the taking of evidence, search and detention, the inspection of goods and places, expert appraisal, the notification and hearing of suspects, witnesses or experts, the transit of personnel and so forth.

57. In other words, when a State Party of the Convention against Torture requests the Macao SAR for mutual legal assistance in the crime of torture, even though both parties did not sign any bilateral agreement, the Macao SAR Government can still provide the State Party with mutual legal assistance pursuant to the provisions of the Law on Mutual Legal Assistance in Criminal Matters, including the provision of information and evidence required for the achievement of the purpose of a criminal prosecution.

58. In terms of bilateral agreements, Article 94 of the Basic Law states that with the assistance or authorisation of the Central People's Government, the Macao Special Administrative Region may make appropriate arrangements with foreign States for reciprocal judicial assistance. Since the submission of the Initial Report, the Macao SAR signed the Agreement on Legal and Judicial Cooperation with the Democratic Republic of Timor-Leste on 21 November 2008. Currently, the Macao SAR is also in contact with other countries and regions for the agreements on mutual legal assistance in criminal matters. In addition, the Macao SAR signed an agreement on the arrangement of the surrender of sentenced persons with the Hong Kong SAR on 20 May 2005.

Article 10
Education and publicity on the prohibition of torture

59. Despite the following new developments, the current situation is approximately the same as that stated in paragraphs 140 to 160 of the Initial Report (paragraphs 145 to 166 in the English version).

Police officers

60. The Macao SAR Government has always paid great attention to the conduct and law-abiding awareness of police officers, and has offered professional trainings to enhance their knowledge in the aspects of law, action, administration and so forth.

61. All the police officers working at the criminal police must be trained at the Academy of Public Security Forces or the Judicial Police School. The content of the training courses includes the Basic Law, the criminal laws, the criminal procedural law and work ethics. The teaching content of the course "Work Ethics" includes the respect for the human dignity and physical and mental integrity of citizens, and the legal provisions for the investigation and the taking of evidence and the relevant work ethics and practice.

62. Since the submission of the Initial Report, the Macao SAR Government has held the following symposiums with criminal law and criminal procedural law as the subjects for police officers:

Symposium held for police officers

Year	*Subject*
2005	Symposium on "Telephone Monitoring", delivered by a judge from the Court of Second Instance
2007	Symposium on "Behaviour of Police Officers and Criminal Proceedings", delivered by a judge from the Court of Second Instance
2008	Symposium on "Legal System on Judicial Assistance in Criminal Matters", delivered by a judge from the Court of Final Appeal
2010	Symposium on "Cybercrime", delivered by a judge from the Criminal Court of the Court of First Instance

Year	*Subject*
2011	Symposium on "Video Monitoring", delivered by the Assistant Coordinator of the Office for Personal Data Protection
2012	Symposium on "Crime of Trafficking in Persons", delivered by a judge from the Court of First Instance

Source: Unitary Police Service of the Macao SAR.

Prison guards

63. Decree-Law 62/88/M, of 11 July, concerning Reconstruction of the Special Career for Prison Guards of Prison Service and the Division for Social Reintegration mentioned in paragraph 147 (paragraph 153 in the English version) of the Initial Report has already been abolished by Law 7/2006, which formulates the General Principles of the Career for Prison Guards, including the stipulation of taking and passing the relevant training courses and practice before entering the career.

64. Since the submission of the Initial Report, the Macao Prison had also included the content regarding the prohibition against the use of torture and other cruel, inhuman or degrading treatment or punishment in the entry training course opened for the prison guards who are going to enter the career for prison guards. Until March 2012, there were altogether 174 new prison guards who had received the relevant training.

Investigators of the Commission Against Corruption

65. In order to strictly abide by the Basic Law and the provisions of the international conventions applicable in the Macao SAR , to uphold the rights, freedom and guarantees of the residents, and to ensure that the personnel of the Commission Against Corruption will carry out their duties in accordance with the law, Article 2 of Law 4/2012 passed in February 2012 concluded the addition of Article 31-A with regard to the provision of the special obligations of the personnel of the Commission Against Corruption to Law 10/2000 concerning the Organisational Law of the Commission Against Corruption of the Macao SAR. Pursuant to the provision of the newly-added Article, the special obligations of the personnel of the Commission Against Corruption include: "the guarantee of the life and physical integrity of the detainee or the person who is being looked after or protected in the form of absolutely respecting the aforementioned person's reputation and dignity" and "the adherence to the principle that a person will not be discriminated against due to his nationality, descent, race, place of origin, age, sex, marital status, sexual preference, language, religion, political or ideological belief, educational level, economic status or social condition".

Health care professionals

66. In paragraph 7 of the concluding observations of 2008, the Committee proposed that the Macao SAR should ensure that health care professionals are equipped with the necessary training to recognise and detect features and signs that may suggest the occurrence of torture, and assist the victims of torture in recovery. To this end, the Macao SAR should, inter alia, further promote, disseminate and use the "Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment" (Istanbul Protocol) issued by the Office of the United Nations High Commissioner for Human Rights.

67. The Health Bureau is going to organise a training course regarding "how to identify and handle victims of torture", with the use of the fundamental teaching material

(the Istanbul Protocol) recommended by the United Nations Committee against Torture. The subjects of the training are the frontline health care professionals of the public hospital, the Macao Prison and the private hospitals, as well as all the private, licensed doctors trained in western medicine.

Others

68. Apart from educating civil servants with and publicising to them the prohibition of torture, the Macao SAR Government has also done a great deal of work in public education and propaganda, with the aim of enhancing citizens' knowledge of the Convention against Torture.

69. Since the submission of the Initial Report, the Macao SAR Government has introduced the provisions of the Convention against Torture through different channels, including the special columns on the newspapers, and television and radio station programmes. In addition, the content of the Convention against Torture had been introduced to schools and volunteer workers in over seventy sessions of the seminar on the Basic Law. Furthermore, the content of the Convention against Torture was also mentioned in the ten versions of the pamphlets and leaflets for promoting legal awareness as published by the Macao SAR Government (including the three languages of Chinese, Portuguese and English), and over 16,000 copies of the relevant pamphlets and leaflets were dispatched in total. All the contents of the special columns on the newspapers, television and radio station programmes and publications were all uploaded to the webpage of the Legal Affairs Bureau of the Macao SAR and the Macao Law Website for citizens' reference at all times.

Article 11
Review of the interrogation rules, instructions, methods and practice for custody and treatment of persons arrested or detained

70. Despite the following newly-added measures, the current situation is approximately the same as the content stated in paragraphs 161 to 167 of the Initial Report (paragraphs 167 to 173 in the English version).

Judiciary Police

71. In order to guarantee the legitimacy of the evidence obtained through investigations and safeguard the human dignity, physical and mental integrity of the persons under investigation against unlawful infringement, the detention rooms of the Judiciary Police will be regularly patrolled by designated personnel and closed-circuit televisions are also installed within the facility for the convenience of duty officers to supervise the instantaneous circumstances in the detention rooms. In addition, the aforementioned authority will provide necessary refreshment for the persons staying at the Judiciary Police for investigation, will appoint personnel to accompany the stated persons to the hospital for medical advice if necessary and will ensure that the reasonable requests of the persons concerned be fulfilled.

72. In order to cope with Law 1/2009, in 2009, the Judiciary Police formulated the Internal Guidelines regarding Lawyer Accompanying Witnesses, Suspects or Defendants during the Investigation at the Judiciary Police, requesting criminal investigators to allow all the persons who assist in, coordinate with and receive criminal investigations to acquire legal information and legal consultation, and be in the company of lawyers without the presentation of authorisation letters during the investigations, pursuant to the rights granted by the relevant law under the circumstance that the normal progress of criminal procedures will not be hindered.

73. In 2010, the Judiciary Police amended the Internal Guidelines of the Judiciary Police and the Work Regulations of the Duty Rooms of the Judiciary Police and the 993 Crime Reporting Hotline. New provisions regarding investigation measures are added, requesting that a criminal investigator, during his adoption of investigation measures, especially during the interrogation of the subject of litigation, shall strictly abide by the law and comply with the substantial and procedural legal requirements in relation to the prohibition against the use of torture and other cruel, inhuman or degrading treatment or punishment.

Public Security Police Force

74. In order to supervise the law-enforcement situation and prevent the occurrence of torture and inhuman or degrading incidents, closed-circuit televisions are installed at the public reception counter, detention rooms and interrogation rooms of the Public Security Police Force.

75. Furthermore, in order to strengthen police officers' knowledge of the provisions with regard to the prohibition against torture and enhance their law-abiding awareness, the Public Security Police Force posted the articles of the Convention against Torture on the notice boards of its subordinate units for all the frontline police officers' reference and perusal. In addition, issues of the prohibition against the use of torture and so forth will be discussed with the police officers in weekly regular meetings.

Macao Customs Service

76. The Macao Customs Service has installed monitoring equipment for privacy protection and recording in the visitor examination rooms at the five entry-exit ports for visitors of the Macao SAR to prevent the examinees from receiving inhuman or degrading treatment.

Solitary confinement measures

77. In paragraph 8 of the concluding observations of 2008, the Committee suggested that the Macao SAR should ensure that persons under the age of 18 should not be subjected to solitary confinement; if applied, it should be limited to very exceptional cases and closely monitored. The Macao SAR should also ensure that solitary confinement remains in all cases a measure of limited duration and of last resort, in accordance with international standards.

78. As described in paragraphs 115 to 130 of the Written Replies by the Macao SAR to the List of Issues to be Considered (CAT/C/MAC/Q/4/Add.1), both the Decree-Law 40/94/M, of 25 July, which establishes the Regime on the Implementation of Measures that Deprive Liberty and Law 2/2007 concerning the Regulatory System of the Education of Unlawful Juveniles clearly stipulate that the seriousness of the disciplinary offence and the behaviour and personality of the offender shall be considered during the imposition of disciplinary measures, and the measure of solitary confinement of up to a month can be imposed only when other measures cannot fulfil the purpose of punishment. The process of solitary confinement shall be monitored by a doctor.

79. Nevertheless, in order to dispel the doubts of the Committee, the Macao SAR Government formulated two guidelines in writing with regard to the imposition of the measure of solitary confinement on minors for the Macao Prison and the Young Offenders Institute respectively in 2009.

80. As regards the prisoners under 16 to 18 years of age, pursuant to Order 19/SS/2009 issued by the Secretary for Security in March 2009, the Macao Prison would not adopt the isolation measure of solitary confinement stated in Article 65 and Article 75 of Decree-Law 40/94/M.

81. Pursuant to Order 91/DSAJ/2009 issued by the Director of the Legal Affairs Bureau in September 2009, concerning the minors aged 12 to 16 who are subject to accommodation measures in the Young Offenders Institute as stipulated by Law 2/2007 concerning the Regulatory System of the Education of Unlawful Juveniles, should a minor be imposed the penalty of "the arrangement of staying in an individual sleeping room" for the violation of a discipline or disciplines, the Young Offenders Institute can only arrange for the offender to stay in an individual sleeping room at night for letting him reflect upon his mistakes quietly. The offender who was arranged to stay in the individual sleeping room can continue to receive follow-up counselling required for his education in daytime and participate in normal activities such as attending classes or leisure-time activities with others.

82. Furthermore, the aforementioned order also emphasizes that during the imposition of the disciplinary measure of "staying in individual sleeping room", the imposer shall abide by the standard set by Law 2/2007, including the consideration of the seriousness of the disciplinary offence and the behaviour and personality of the offender. The stated penalty can be adopted only under the circumstances that the offender's offence is a serious disciplinary offence and other types of disciplinary measures are insufficient for correcting the offender's mistake.

Article 12
Prompt and impartial investigation of acts of torture

83. The current situation is identical to that stated in paragraphs 168 to 178 of the Initial Report (paragraphs 174 to 184 in the English version).

Article 13
Right of complaint

84. The current situation is approximately the same as that stated in paragraph 179 to paragraph 189 of the Initial Report (paragraphs 185 to 195 in the English version).

85. The data concerning the complaints filed against the security forces and the staff of the security departments involved in the violent behaviour of damaging the victims' physical integrity between 2006 and 2011 is as follows:

Complaints filed against the Security Forces and the Staff of the Security Departments

	2006		*2007*		*2008*		*2009*		*2010*		*2011*	
Department Involved	*Case*	*No. of People*	*Case*	*No. of People*	*Case*	*No. of People*	*Case*	*No. of People*	*Case*	*No. of People*	*Case*	*No. of People*
Judiciary Police	2	2	4	10	5	14	3	5	1	2	4	11
Public Security Police Force	5	10	11	27	10	14	15	21	15	32	10	20
Macao Customs Service	1	1	1	3	0	0	0	0	0	0	0	0
Total No.	**8**	**13**	**16**	**40**	**15**	**28**	**18**	**26**	**16**	**34**	**14**	**31**

Source: Security Forces Coordination Office of the Macao SAR.

Note: The aforementioned cases of complaints included cases occurring during active service within the police districts (under surveillance) and beyond the police districts (beyond surveillance).

Consequences caused by the aforementioned complaints

Year	No. of Cases	Rejected Complaint[1]	Internal Disciplinary Procedure			Case Sent to the Public Prosecutions Office	
			In Process	Case Filed	Penalty Case	In Process	Case Filed
2006	8	0	0	4	0	1	3
2007	16	2	2	5	2	2	3
2008	15	8	2	2	0	3	0
2009	18	11	0	1	1	5	0
2010	16	6	2	2	0	6	0
2011	14	4	1	6	0	3	0

Source: Security Forces Coordination Office of the Macao SAR.

Note: (1) Disciplinary procedures were not launched due to insufficient evidence.

86. Between 2006 to 2011, there were three closed internal disciplinary procedures caused by the said complaints and five police officers were fined.

Article 14
Right of victims of torture to obtain compensation

87. The current situation is identical to that stated in paragraphs 190 to 204 of the Initial Report (paras. 196–210 in the English version).

Article 15
Nullity of evidence obtained through torture

88. The current situation is identical to that stated in paragraphs 205 to 208 of the Initial Report (paras. 211–214 in the English version).

89. As mentioned earlier, closed-circuit televisions are installed in the detention rooms of the criminal police, which is helpful for increasing the transparency of the interrogation process.

Article 16
Prevention of other acts of cruel, inhuman or degrading treatment or punishment

90. The current situation is identical to that stated in paragraphs 209 to 212 of the Initial Report (paras. 215–220 in the English version).

91. In paragraph 9 of the concluding observations of 2008, the Committee noted that the subjects of human trafficking in the Macao SAR, with sexual exploitation as the purpose, are chiefly women and children." For this reason, the Committee held that the Macao SAR should: "(a) investigate all cases of trafficking and strengthen its efforts to prosecute and punish the perpetrators; (b) increase protection, including recovery and reintegration, to trafficked persons, especially women and children, who should be treated as victims and not criminalized; and (c) strengthen cooperation with the authorities of countries from or to which individuals are trafficked in order to combat this practice; such cooperation should include multilateral, regional and bilateral arrangements for the prevention, detection,

investigation, prosecution and punishment of those responsible of trafficking as well as strategies for supporting the victims."

92. We do not hold that the cases of human trafficking belong to the scope of the Convention against Torture; nevertheless, in order to dispel the doubts of the Committee, we will elaborate the measures adopted for cracking down on the human trafficking activities in the following paragraphs.

93. In order to crack down on human trafficking activities in a more efficacious manner, the Macao SAR Government established an interdepartmental Human Trafficking Deterrent Measures Concern Committee with the function of coordination in 2007 and adopted Law 6/2008 regarding the provisions of the combat against the crime of human trafficking in June 2008.

94. The Human Trafficking Deterrent Measures Concern Committee is composed of representatives in the areas of security, administration and justice, and social affairs and culture, with the responsibilities of exploring, assessing and studying the situation of the Macao SAR, promoting social research and analysis, raising suggestions, supervising the departments concerned to actions combating human trafficking, including the tasks of prevention, protection and social reintegration for the victims and so forth, following up relevant matters on the issue of human trafficking.

95. The formulation of Law 6/2008 regarding the Combat against the Crime of Human Trafficking aimed at bettering the penal stipulations of the Macao SAR with regard to the combat against human trafficking and further implementing the obligations stipulated by the international legal instruments, which are applicable to the Macao SAR, for instance, the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime. The aforementioned law concluded the "crime of human trafficking" as follows: whoever offers, delivers, induces, recruits, accepts, transports, transfers, harbours or receives a person for the purpose of sexual exploitation, exploitation of labour or services of that person, slavery or practices similar to slavery, removal of organs or tissues of human origin, by means of violence, abduction, or serious threat, of deception or fraud, of abuse of authority as a result of a hierarchical, economic, labour or family relationship of dependency; of abuse of psychic incapacity or of any other situation of vulnerability of the victim; or of obtaining the consent of a person having control over the victim, shall be punished with a penalty of three to twelve years of imprisonment.

96. Pursuant to Law 6/2008, the situations of aggravated penalty caused by the engagement in the crime of human trafficking include: if the victim of human trafficking is a minor, the perpetrator of the relevant criminal behaviour can be sentenced to five to fifteen years of imprisonment; if the victim is a minor under fourteen years old, or if the perpetrator acts as a form of living or with intent to profit, the penalties will be aggravated by one-third in its minimum and maximum limits, implying that the imposition of the maximum penalty of twenty years of imprisonment can be considered.

97. The aforementioned law also stipulates that the offender who, by means of giving or receiving payments or other benefits, surrenders, cedes or acquires a minor, or obtains or gives consent to the adoption of a minor, is liable to one to five years of imprisonment.

98. In addition, Law 6/2008 stipulates that a legal person who commits the crime of human trafficking in his name and for his own benefits shall bear criminal responsibilities; he can be fined and can even be ordered to dissolve by the court and can also be imposed accessory punishment, for instance, the prohibition on engaging in certain businesses, the deprivation of the right to subsidies or subventions granted by public services or entities, the closing of the establishment, judicial injunction and public announcement of a sentence and so forth.

99. Law 6/2008 stipulates that the scope of the "crime of human trafficking" includes all the behaviours of human trafficking from the Macao SAR to foreign countries, from foreign countries to the Macao SAR and within the boundary of the Macao SAR. Furthermore, the Macao SAR established extraterritorial jurisdiction for the crime of human trafficking through Article 3 of the aforementioned law.

100. In terms of strengthening the protection of victims of the crime of human trafficking, in order to protect the victims' identities from revelation, Article 4 of Law 6/2008 amended Article 77 and Article 78 of the Criminal Procedural Code so that the procedural actions regarding the crime of human trafficking can be conducted in an undisclosed manner and the social media is banned from revealing the identities of the victims of the crime of human trafficking, of which the violators concerned will be punished for the crime of disobedience. In addition, Article 8 of the aforementioned law has established measures regarding the police's protection for the victims for the sake of safeguarding their personal and property security.

101. Furthermore, Article 6 of Law 6/2008 concluded a series of rights of the victims, including the acquisition of legal advice and legal assistance services, the recovery of civil compensation, the acquisition of psychological, medical and medication assistance for free, language translation assistance and so forth. If the victim is from another country, the Macao SAR Government will immediately inform the embassy, the consulate or the accredited representative of the country or region where the victim belongs of the relevant news and will let the victim remain in the Macao SAR during the hearing of the case.

102. The following information shows the cases involving human trafficking which were investigated by the police between 2008 and 2012:

Cases involving the crime of human trafficking between 2008 and 2012[1]

				Age of Victim		*Nationality*	
Year	*No. of Cases*	*No. of Victims*	*Gender of Victim*	*Below 18*	*Above 18*	*Mainland China*	*Other*
2008	14	19	Female	7	12	16	3 (Macao SAR)
2009	5	5	Female	3	2	4	1 (Mongolia)
2010	14	25	Female	7	18	25	-
2011	11	11	Female	5	6	11	-
2012[2]	5	11	Female	7	4	11	-

Source: Security Forces Coordination Office of the Macao SAR.

Note: (1) The data in this section was worked out only after the entry into force of Law 6/2008 on 23 June 2008. (2) Up to April.

103. There were altogether two cases of human trafficking which were tried by the court in 2008 and the two cases were sentenced to seven years and six months of imprisonment and five years of imprisonment respectively. In addition, the court heard a case of human trafficking in 2010 and the defendant of the stated case was sentenced to three years of imprisonment.

104. In terms of the publicity for the combat against human trafficking, apart from the dispatch of pamphlets written in multiple languages, including Chinese, Portuguese, English, Japanese, Korean, Thai, Mongolian and Burmese, at ports, hospitals and places at

risk of human trafficking (for instance, saunas and massage parlours, casinos and so forth). publicity messages were also broadcasted through television stations and radio stations.

105. With regard to training, the Macao SAR Government has provided different types of training activities for police officers, including the organisation of the following training courses and workshops: "Identification of Victims of the Crime of Human Trafficking through Behaviour and Psychological Indications", "Application of Tools for Assisting in the Identification of Victims of Human Trafficking", "Combat against Human Trafficking", "A Study of A Number of Legal Questions concerning the Crime of Human Trafficking". Furthermore, special trainings were also held for female police officers, the staff of the Health Bureau and the Social Welfare Bureau so as to familiarise them with the techniques for handling women and children victims.

106. Furthermore, the Macao SAR Government has also assigned police officers to participate in international seminars and programmes, for instance, the "Anti-Human Trafficking" Programme (the content included the international phenomenon of human trafficking, the handling and identification of victims, risk assessment, the handling of work procedures of the cases of human trafficking, international cooperation, and so forth) held in Bangkok, Thailand in 2010, the Bali Process Conference held in Bali, Indonesia in 2011 and the Bali Process Technical Experts Meeting on People Trafficking held in Kuala Lumpur, Malaysia in 2012 (with the purpose of consolidating and improving the counter-measures and law-enforcement capability for the cases of human trafficking, sharing and exchanging experience on the combat against the crime and the protection of victims).

107. The measures and procedures in investigation and handling of the cases of human trafficking, the procedures of identifying victims, the skills of interrogating victims, the learning of new techniques and so forth can be bettered through different types of training activities.

108. On the other hand, the Immigration Department of the Public Security Police Force has already established a liaison mechanism with other government departments, including the Macao Customs Service, the Judiciary Police, the Health Bureau and the Social Welfare Bureau, for the convenience of handling potential cases of the victims of human trafficking in a more efficacious manner. In addition, the Immigration Department of the Public Security Police Force has also established a liaison mechanism with the Liaison Office of the Central People's Government in the Macao SAR and the embassies and consulates of certain countries at risk of human trafficking for the convenience of handling potential cases of victims including the nationals of Mainland China or relevant countries.

109. With respect to the law-enforcement work of the police affairs institutions, intelligence collection has been consolidated, the number of police patrols in locations at high risk of the crime of human trafficking has been increased, the countries at comparatively high risk of human trafficking have been identified, stricter surveillance has been enforced at ports, the cooperation in police affairs with neighbouring regions (for instance, Zhuhai, Guangdong and the Hong Kong SAR), foreign countries and international organisations (for instance, the International Criminal Police Organization (INTERPOL)) has been strengthened, and a liaison mechanism with those entities has been established (the assignment of liaison officers).

110. In addition, two 24-hour reporting and assistance hotlines were established for the convenience of collecting intelligence regarding human trafficking and providing assistance for the victims; one hotline is operated by the Public Security Police Force whereas the other one, a local non-governmental organization (NGO) (the Women's General Association of Macau) is sponsored by the Social Welfare Bureau.

111. In terms of the measures for protecting and assisting victims, the Macao SAR Government has formulated a victim protection scheme, which includes the provision of an

appropriate but temporary shelter in a private and free manner for the victim so as to ensure her personal safety and necessary and appropriate psychological, medical, social, economic and legal assistance. For this reason, the Macao SAR Government established a housing centre under the coordination of the Social Welfare Bureau and provides assistance for the victims through the cooperation with two local NGOs (the Women's General Association of Macau and the Good Shepherd Centre) and the Health Bureau. With regard to social assistance, work including the provision of vocational training for the victims is being introduced to help them reintegrate into society in the future.

112. Furthermore, the Macao SAR Government ensures that the victims can gain access to the information in relation to their rights, receive translation services, contact the consulates of their countries or regions, and return to their countries or regions.

113. With respect to international cooperation, the Macao SAR signed an agreement on cooperation in combating human trafficking with the Government of Mongolia on 18 October 2010.

List of references

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Penal Code
(Refer to **http://bo.io.gov.mo/bo/i/95/46/codpencn/default.asp**);

Criminal Procedural Code
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(Refer to **http://bo.io.gov.mo/bo/i/94/30/declei40_cn.asp**);

Law 3/2002 Procedural Law for the Notification of Requests for Mutual Legal Assistance
(Refer to **http://bo.io.gov.mo/bo/i/2002/09/lei03_cn.asp**);

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(Refer to **http://bo.io.gov.mo/bo/i/2004/08/lei01_cn.asp**);

Law 6/2004 Law of Illegal Immigration and Deportation
(Refer to **http://bo.io.gov.mo/bo/i/2004/31/lei06_cn.asp**);

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(Refer to **http://bo.io.gov.mo/bo/i/2005/34/lei08_cn.asp**);

Law 6/2006 Law on Mutual Legal Assistance in Criminal Matters
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